

1 NATE A. GARHART (CA Bar No. 196872)

2 (nate@cobaltlaw.com)

3 VIJAY K. TOKE (CA Bar No. 215079)

4 (vijay@cobaltlaw.com)

5 COBALT LLP

6 918 Parker Street, Bldg. A21

7 Berkeley, CA 94710

8 Telephone: (510) 841-9800

9 Facsimile: (510) 295-2401

10 Attorneys for Plaintiff

11 NOODLES RAW CATERING LLC

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA**

14 **SAN JOSE DIVISION**

15 NOODLES RAW CATERING LLC,

16 Plaintiff,

17 v.

18 SAISON GROUP LLC,

19 Defendant.

Case No.: 5:15-cv-00316-PSG

**NOODLES RAW CATERING LLC'S
CASE MANAGEMENT STATEMENT**

20 Plaintiff Noodles Raw Catering LLC submits this CASE MANAGEMENT STATEMENT
21 & PROPOSED ORDER pursuant to the Standing Order for All Judges of the Northern District of
22 California dated July 1, 2011 and Civil Local Rule 16-9. Plaintiff submits this statement on its
23 behalf only as Defendant has not yet filed a responsive pleading in this case.

24 1. Jurisdiction and Service

25 As a preliminary matter, Defendant was served with the complaint on January 28, 2015.
26 Since that time the parties have actively engaged in fruitful settlement discussions. The parties have
27 agreed to an extension of time for Defendant to respond to the complaint. At this time, the parties
28 have reached a settlement and have fully negotiated the language of a settlement agreement except
as to one remaining item in dispute, which they are actively working to resolve.

1 This Court has subject matter jurisdiction over Plaintiff's federal law claims pursuant to 28
 2 U.S.C. Sections 1331, 1338(a), and 1338(b). The Court may exercise jurisdiction over Plaintiff's
 3 unfair competition claim under 28 U.S.C. Section 1367. Venue is proper in this District under 28
 4 U.S.C. Section 1391 because the parties conduct business within this District, the alleged
 5 infringement arose within this District, and all parties were subject to personal jurisdiction in this
 6 District at the time this action was commenced.

7 Plaintiff reserves its right to add additional parties as needed after conducting discovery, but
 8 states that no parties remain to be served at this time.

9 2. Facts

10 Plaintiff has operated a successful chain of restaurants—currently with two locations—in
 11 San Francisco under the mark CHUBBY NOODLE since 2011. In late 2012, Defendant filed an
 12 intent-to-use trademark application with the USPTO for the mark FAT NOODLE. In or about
 13 September, 2014 Defendant began marketing its to-be-opened restaurant under the name FAT
 14 NOODLE, including from the domain name www.fatnoodle.com. Plaintiff contacted Defendant
 15 and attempted to resolve the matter informally, but the parties were unable to do so. Plaintiff
 16 therefore filed and served this action.

17 3. Legal Issues

- 18 • Whether Defendant's name FAT NOODLE infringes Plaintiff's CHUBBY
- 19 NOODLE mark.
- 20 • Whether Defendant's trademark application for the name FAT NOODLE should be
- 21 abandoned
- 22 • Whether Defendant's adoption and use of the domain name www.fatnoodle.com
- 23 constitutes cybersquatting
- 24 • Whether Defendant's www.fatnoodle.com domain name should be transferred to
- 25 Plaintiff

26 ///

27 ///

1 4. Motions

2 At this time Plaintiff does not anticipate the need for filing any motions. If Defendant is
3 required to respond to the complaint, Plaintiff understands that Defendant reserves its right to file
4 any motion that Defendant deems necessary or desirable to file.

5 5. Amendment of Pleadings

6 At this time, Plaintiff does not anticipate amending the pleadings as plaintiff expects this
7 case will settle shortly with the parties' execution of a written settlement agreement whose language
8 is already largely agreed upon.

9 6. Evidence Preservation

10 Plaintiff has taken steps to preserve evidence relevant to the issues reasonably evident in this
11 action, including interdiction of any document destruction program and any ongoing erasure of
12 emails, voice mails and other electronically recorded materials.

13 7. Disclosures

14 Because Defendant has not yet appeared in this action, the parties have not engaged in a
15 Rule 26(f) conference and have not had the opportunity to discuss the timing of initial disclosures.
16 Plaintiff believes the Rule 26(f) conference and the exchange of initial disclosures will be
17 unnecessary as Plaintiff anticipates that the case will settle shortly.

18 8. Discovery

19 Because Defendant has not yet appeared in this action, the parties have not engaged in a
20 Rule 26(f) conference and have not had the opportunity to discuss a discovery plan. Plaintiff
21 believes that the Rule 26(f) conference and the need to conduct discovery will be unnecessary as
22 Plaintiff anticipates that the case will settle shortly.

23 9. Class Actions

24 This is not a class action.

25 10. Related Cases

26 Plaintiff is not aware of any related cases.

27 ///

28 ///

1 11. Relief

2 Plaintiff seeks damages and injunctive relief, as set forth in the complaint. Plaintiff also
3 reserves its rights to opt for statutory damages under the Lanham Act in connection with Plaintiff's
4 anti-cybersquatting claim for relief.

5 12. Settlement and ADR

6 The parties have reached a settlement as to nearly all the items in dispute between them as
7 relates to Plaintiff's Complaint except for one item. The parties are actively working to resolve that
8 remaining issue and have agreed on the language of a settlement agreement as to all remaining
9 items in dispute.

10 13. Consent to Magistrate Judge for All Purposes

11 Plaintiff has consented to have a magistrate judge assigned to this case for all purposes.

12 14. Other References

13 Because Defendant has not yet appeared in this case, the parties have not discussed whether
14 this action is suitable for reference to binding arbitration, a special master, or to the Judicial Panel
15 on Multidistrict Litigation. However, at this time Plaintiff does not believe this action is so suitable.
16 Plaintiff further believes that any such reference will be unnecessary as Plaintiff anticipates that the
17 case will settle shortly.

18 15. Narrowing of Issues

19 Because Defendant has not yet appeared in this action, the parties have not had the
20 opportunity to discuss a narrowing of the issues in this case.

21 16. Expedited Trial Procedure

22 Because Defendant has not yet appeared in this action, the parties have not discussed
23 whether this action is suitable for an expedited trial schedule. However, at this time Plaintiff does
24 not believe this action is so suitable. Plaintiff believes that the use of an expedited trial procedure
25 will be unnecessary as Plaintiff anticipates that the case will settle shortly.

26 17. Scheduling

27 Because Defendant has not yet appeared in this case, Plaintiff does not believe discussing a
28 schedule of deadlines is appropriate at this time.

Because Defendant has not yet appeared in this case, Plaintiff is not currently able to provide a meaningful estimate of time that will be required for trial of this matter. Plaintiff believes that a trial will be unnecessary as Plaintiff anticipates that the case will settle shortly.

Plaintiff has filed its “Certification of Interested Entities or Persons,” as required by Civil Rule 3-16. Because Defendant has not yet appeared in this case, it has not yet done so.

Nothing at this time.

None.

COBALT LLP

Attorneys for Plaintiff
NOODLES RAW CATERING LLC

Based on the CASE MANAGEMENT STATEMENT & PROPOSED ORDER filed by
ff on May 5, 2015, the Court hereby continues the Case Management
ence for this case for 60 days until July 21, 2015 at 10:00 am. All
deadlines under Federal Rules of Civil Procedure 16 and 25 and applicable case
ement and discovery local rules and standing orders shall be continued to accord with the
nference date.


Hon. Paul Singh Grewal

UNITED STATES MAGISTRATE JUDGE